

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 30 2002

In the Matter of

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

AMENDMENT OF SECTION 73.622(b),
TABLE OF ALLOTMENTS,
DIGITAL TELEVISION BROADCAST
STATIONS
(AVALON, CALIFORNIA)

MB Docket No. 02-223
RM-10520

To: The Chief, Video Division, Media Bureau

**PAPPAS SOUTHERN CALIFORNIA LICENSE, LLC'S
SUPPLEMENTAL REPLY COMMENTS**

Pappas Southern California License, LLC ("PSCL"), the licensee of primary analog UHF commercial television broadcasting station KAZA-TV, NTSC Channel 54, Avalon, California, by its undersigned counsel, hereby respectfully submits these Supplemental Reply Comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM") in the above-captioned proceeding, DA 02-1938, adopted on August 5, 2002 and released on August 7, 2002, 17 FCC Rcd. ___, 67 Fed. Reg. 53899 (published on August 20, 2002).¹

¹ PSCL is filing simultaneously herewith under separate cover its "Motion for Leave to File Supplemental Reply Comments."

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The *NPRM* proposes to amend the Commission's Table of Allotments for Digital Television Broadcast Stations, 47 C.F.R. § 73.622(b) (2001), in order to allot Digital Television Channel 47c to Avalon, California, in fulfillment of Section 531 of the Public Health, Security, and Bioterrorism Preparedness and Response Act of 2002, Public Law No. 107-188, 116 Stat. 594 (enacted June 12, 2002) (the "Bioterrorism Preparedness Act"). In the event that such a proposal is adopted, PSCL has stated that it will timely apply for a construction permit to build a new primary digital UHF commercial television broadcasting station, KAZA-DT, on DTV Channel 47c to serve Avalon. It is the desire of PSCL to operate KAZA-DT with 500,000 watts of effective radiated power ("ERP") and with its antenna radiation center at approximately 963 meters above average terrain ("AAT"), from a site on Mount Wilson in Los Angeles County, as explained in PSCL's Comments in this proceeding, filed on August 15, 2002. The purpose of these Supplemental Reply Comments is to inform the Commission that the only technical impediments to the operation of KAZA-DT on Channel 47c as described in the preceding sentence have been removed by circumstances developing since the filing by PSCL of its Reply Comments in this proceeding on August 23, 2002.

Background

As noted in PSCL's Comments, the only qualification to the operation of KAZA-DT on Channel 47c from a site on Mt. Wilson, with a maximum ERP of 500

kilowatts (“kW”) and with its antenna radiation center height AAT of 963 meters, is that it would not provide interference protection to the site at La Habra Heights where first-adjacent DTV Channel *48 was allotted for use by Coast Community College District’s (“CCCCD’s”) authorized, but unbuilt, new primary digital UHF noncommercial, educational television broadcasting station KOCE-DT, Huntington Beach, California. However, CCCD holds a construction permit from the Commission ² that authorizes CCCD to build KOCE-DT on DTV Channel *48, with the facilities of such station located on Mount Wilson, rather than at La Habra Heights.

At the time that PSCL filed its Reply Comments, Costa de Oro Television, Inc. (“Costa”) was an applicant to the Commission for a construction permit ³ that would authorize Costa to build new primary digital UHF commercial television broadcasting station KJLA-DT, Ventura, California, on DTV Channel 49, with the facilities of such station located on Mount Wilson. As explained in PSCL’s Reply Comments, the Joint Comments of CCCD and Costa in this proceeding state that once the KOCE-DT and the KJLA-DT construction permits were both granted, “KOCE-TV would be in a position to state that it waives its rights to protection of its digital allotment site at La Habra Heights.” ⁴

² File No. BPEDT-19991101AKY, granted on August 30, 2001, expiring on May 1, 2003.

³ File No. BPCDT-19991101AFT, as amended.

⁴ Joint Comments of CCCDC and Costa, filed in this proceeding on August 15, 2002, at p. 5.

In addition, on the date for filing Comments in this proceeding, Sunbelt Television, Inc. ("Sunbelt")⁵ submitted a Counterproposal to the *NPRM*, proposing that DTV Channel 47 be allotted to Barstow, California, in lieu of to Avalon. In its Reply Comments, PSCL urged the Commission to dismiss or to deny Sunbelt's Counterproposal. In its own Reply Comments in this proceeding, filed on August 23, 2002, Sunbelt effectively modified its Counterproposal by suggesting that DTV Channel 55 could be allotted to Barstow, thus enabling DTV Channel 47c to be allotted to Avalon consistent with the *NPRM*.

New Developments

By an action of the Chief of the Media Bureau, taken pursuant to delegated authority on August 28, 2002, the Commission granted Costa's application for a construction permit to collocate the facilities of KJLA-DT with the previously-authorized facilities of KOCE-DT on Mount Wilson. Accordingly, the conditions specified in the above-quoted passage from CCCD's and Costa's Joint Comments have now been satisfied.

⁵ Sunbelt, the licensee of primary analog UHF commercial television broadcasting station KHIZ (TV), NTSC Channel 64, Barstow, California, is an applicant to the Commission for a construction permit to build new primary digital UHF commercial television broadcasting station KHIZ-DT, Barstow, California, on DTV Channel 44 (File No. BPCDT-19991028ACX).

In fact, to evidence the same, there is attached to these Supplemental Reply Comments, at Appendix A, a letter dated August 29, 2002 to the Commission from Mel Rogers on behalf of CCCD, whereby CCCD waives any rights that it may have to the protection of the site at La Habra Heights to which DTV Channel *48 is allotted from any adjacent-channel interference that may be caused by the operation of KAZA-DT on DTV Channel 47 from Mount Wilson, with the facilities set forth in the letter.⁶


Accordingly, because CCCD has now waived any right to insist that PSCL's proposed new DTV station KAZA-DT on DTV Channel 47c, with the facilities described in that letter, protect the DTV Channel *48 allotment site at La Habra Heights, the Commission may allot that Channel 47c to Avalon for use by PSCL with such facilities, consistent with Section 531 of the Bioterrorism Preparedness Act.

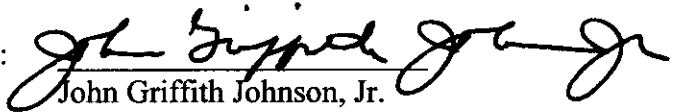
Further, with respect to Sunbelt's Counterproposal and its Reply Comments, PSCL supports Sunbelt's Reply Comments as a method for removing all conflicts that might otherwise have arisen between the *NPRM* and Sunbelt's Counterproposal.

⁶ PSCL had hoped to be able to submit the attached letter with its Reply Comments. However, the KJLA-DT application was not granted until after the deadline for filing the Reply Comments had passed.

Respectfully submitted,

PAPPAS SOUTHERN CALIFORNIA LICENSE, LLC

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August 30, 2002

Appendix A

August 29, 2002

By Messenger

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Room TW-204B
Washington, D.C. 20554

RECEIVED ~~STAMP~~ AND RETURN

AUG 29 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: KOCE-DT (Huntington Beach, CA) Waiver of Interference Protection from Proposed KAZA-DT (Avalon, CA) at KOCE-DT Allotment Site of La Habra Heights, CA, as Contemplated in the Currently Pending MB Docket No. 02-223

Dear Ms. Dortch:

Enclosed is a letter, submitted on behalf of the Board of Trustees, Coast Community College District ("CCCD"), licensee of Station KOCE-TV (Channel 50), Huntington Beach, CA, and permittee of Station KOCE-DT, also Huntington Beach, CA, addressing the above-referenced acceptance of interference from proposed KAZA-DT, Avalon, CA. The letter serves to waive protection from the interference that might be caused to KOCE-DT, from the operation of proposed KAZA-DT at Mt. Wilson, were KOCE-DT to locate its digital transmission facility at the La Habra Heights, CA allotment site.

This waiver of interference protection is an issue raised in paragraph five of the Commission's *Notice of Proposed Rule Making* ("Notice") in MB Docket No. 02-223, DA 02-1938, released August 7, 2002. That channel allotment rulemaking proceeding was initiated to implement the relevant provisions of the Public Health, Security, and Bioterrorism Preparedness and Response Act of 2002 (Public Law No. 07-188, 116 Stat. 594 (2002)).

As noted in the enclosed letter, KOCE-DT now has an authorization from the Commission (File No. BPEDT-19991101AKY) to build its digital facility (to operate on paired Channel 48) at Mt. Wilson, which would be on a collocated basis with the proposed KAZA-DT facility. CCCD intends to build its KOCE-DT facility at Mt. Wilson and now will be able to do so as a result of the Commission's grant, yesterday, of the construction permit (File No. BPCDT-19991101AFT) for Station KJLA-DT (which also will operate from Mt. Wilson), to broadcast on Channel 49, one channel removed from the operating frequency of KOCE-DT.

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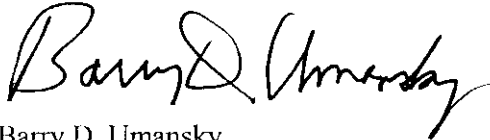
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August 29, 2002

Page 2

Should any questions arise in connection with this matter, please communicate directly with the undersigned.

Very truly yours,



Barry D. Umansky
Counsel for The Board of Trustees,
Coast Community College District

Enclosure

cc: (by hand with/encl.):

Barbara A. Kreisman, Chief, Video Division, Media Bureau, FCC
John Morgan, Associate Chief (Engineering), Video Division, Media Bureau, FCC
Clay Pendarvis, Associate Chief, Video Division, Media Bureau, FCC
Joyce Bernstein, Video Division, Media Bureau, FCC
Nai Tam, Video Division, Media Bureau, FCC
John Griffith Johnson, Paul, Hastings, Janofsky & Walker, LLP
Counsel for Pappas Southern California Licensee, LLC
Dan J. Alpert
Counsel for Sunbelt Television, Inc.
Barry A. Friedman, Esq.
Counsel for Costa de Oro Television, Inc.

cc: (by first-class mail with/encl.)

Mel Rogers, KOCE-TV/DT



August 29, 2002

Federal Communications Commission
The Portals II
445 Twelfth Street, S.W.
Washington, D.C. 20554

To Whom It May Concern:

Coast Community College District ("CCCD") holds a construction permit from the Federal Communications Commission ("FCC") that authorizes CCCD to construct new primary UHF digital noncommercial, educational television broadcasting station KOCE DT, Huntington Beach, California, on Digital Television ("DTV") Channel #48, with the facilities of such station to be located on Mount Wilson (FCC File No. BPEDT-19991101AKY, granted August 30, 2001).

It is CCCD's intention to construct the facilities of KOCE DT on Mount Wilson pursuant to the referenced construction permit. Accordingly, and based upon the FCC's grant of the application of Costa de Oro Television Inc. for a construction permit for new primary UHF digital commercial television broadcasting station KJLA DT, Ventura, California, to operate on Mount Wilson in File No. BPCDT-19991101AFT, as amended, CCCD hereby waives to the maximum extent permitted by law, regulation, or policy any rights that CCCD may have to the protection of the site at La Habra Heights to which DTV Channel #48 is allotted by the FCC in 47 C.F.R. § 73.622(b) from any adjacent-channel interference that may be caused by the operation by Pappas Southern California License, LLC's proposed new primary UHF digital commercial television broadcasting station KAZA DT, Avalon, California, on DTV Channel 47 with the facilities of such station located on Mount Wilson at approximately 500,000 watts of effective radiated power and an antenna height above average terrain of approximately 963 meters.

Any questions pertaining to this matter may be directed to our legal counsel as follows:

Barry D. Umansky
Thompson, Hine LLP
1920 N Street N.W., Suite 800
Washington, D.C. 20036
202-331-8800

Sincerely yours,

COAST COMMUNITY COLLEGE DISTRICT

BY: 



15:51 Gothard Street Huntington Beach, CA 92647 04/6 Phone 714 835 5623 FAX 714 895 0852 www.koce.org

CERTIFICATE OF SERVICE

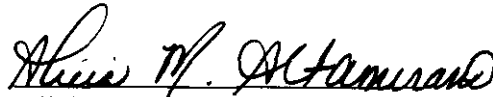
I, Alicia M. Altamirano, a secretary in the law firm of Paul, Hastings,
Janofsky & Walker, LLP, do hereby certify that I have on this 30th day of August, 2002,
sent copies of the foregoing **Pappas Southern California License, LLC's**

Supplemental Reply Comments to the following by hand delivery:

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